IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 21022 of 2007(C)

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PETITIONER:

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M.V.PRIYESH, S/O. BHASKARAN,
YAMUNA, KUSAL NAGAR, KANHANGAD.

BY ADV. SRI.K.I.SAGEER IBRAHIM

RESPONDENTS:

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1. SECRETARY,
KANHANGAD MUNICIPALITY, MUNICIPAL OFFICE,
KANHANGAD.

2. K.G.VENUGOPAL,
ALAMIPALLY, KANHANGAD-671 315, HOSDURG,
KASARAGOD.

R1 BY SRI. K.K. CHANDRAN PILLAI.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.M.JOSEPH, J.**

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WP.(C) No. 21022 of 2007

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Dated this the 24th day of July, 2007

**JUDGMENT**

Petitioner approached this court for enforcing Ext.P1. Ext.P1 is an order passed by the respondent Municipality to demolish the construction made by the second respondent. That was confirmed by Ext.P2 and even though the matter was taken up before the Tribunal, according to the petitioner, the appeal was dismissed but with certain directions. The Tribunal found that the Secretary was justified in passing the order directing demolition. Then the Tribunal disposed of the matter with a direction to the Secretary that if the second respondent files an affidavit within thirty days undertaking to effect such alterations to the building directed to be demolished so as to make it in conformity with the provisions and apply for regularisation within four months and submits application accordingly after effecting alterations, further action will be taken only after passing orders on the application for regularisation with opportunity of hearing to the second respondent, in accordance with the provisions of Chapter XI of the

Kerala Municipality Building Rules as it stood prior to 5.1.2006. Complaint is that Exts.P1 to P3 are not being enforced. It appears that the petitioner's brother preferred writ petition, which came to be dismissed by Ext.P4 judgment. Therein the court dismissed the writ petition, but with a direction to the Municipality to pass orders on the application for regularisation. Petitioner preferred Ext.P5.

2. Today when the matter came up, Sri. K.K.Chandran Pillai, learned counsel appearing on behalf of the first respondent submits on instructions that the second respondent did not comply with the direction to make modification and to file undertaking. Consequently a notice was sent to the second respondent and he was heard on 19.7.2007. Thereafter an order came to be passed on 23.7.2007 for demolition of the structure. It is stated that it is being communicated to the second respondent. In such circumstances, it is clear that the first respondent has already seized of the matter and has in fact proceeded to pass orders on 23.7.2007 after hearing the second respondent for carrying out demolition. This means that the first respondent is implementing the orders as is sought.

In such circumstances, in view of the fact that action is taken by the first respondent, I record the submission of the first respondent and close this writ petition.

(K.M. JOSEPH, JUDGE)

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